

A bill authorizing and requiring the Adjutant-General to issue a certificate for 2,560 acres of land to the heirs of J. C. Logan, deceased; read first time.

On motion of Mr. McDade, the Senate adjourned until Monday morning at 10 o'clock.

MONDAY, November 28, 1853.

The Senate met pursuant to adjournment—prayer by the Chaplain—roll called—quorum present.

The Journal of Saturday was read and adopted.

Mr. McDade presented the petition of James H. Tom, praying for relief; referred to the committee on Counties and County Boundaries.

Mr. Keenan presented the petition of Mary Lasater, asking for 1,476 acres of land: referred to the committee on Private Land Claims.

Mr. Potter, chairman of the committee on the Judiciary, to whom was referred a bill to amend the first and seventh sections of an act concerning writs of certiorari to justices' courts, reported the same back to the Senate and recommended its passage, with the following amendment, to come in at the end of the first section:

And further provided, that this act shall not be construed to repeal or interfere with the 67th section of the act organizing justice's courts, and defining the powers and jurisdiction of the same.

Mr. Potter, from the same committee, made the following report:

The Judiciary committee have considered a bill to be entitled an act to amend an act organizing inferior courts, and defining the powers and jurisdiction of the same, passed December 20th, 1836. The object of the bill is to prevent deeds, &c., from operating as notice to third parties until the same shall have been duly recorded, in the manner now provided for by law, notwithstanding such third parties may have actual notice of such unrecorded deed. The law, as it now stands, makes ample provisions for the probate and registration of instruments; and an unrecorded instrument is not notice to any third party, except as provided for in the 21st section of the act of limitations of February 5th, 1841.—Hart. Dig., Art. 2,777—which is as follows: "Such acknowledgment, or probate certificate and registration, or either, as between the parties and their legal representatives,

and all subsequent purchasers and creditors, with actual notice, or reasonable information of the grant, deed or instrument, shall not be deemed requisite in order to its full effect, validity and priority according to its own intrinsic nature." A majority of the committee are of the opinion that the law as above stated affords ample protection to all parties, and should not be changed. They have, therefore, directed me to return the bill to the Senate and recommend that it do not pass.

Mr. Potter, from the same committee, to whom was referred a bill to amend an act to incorporate the city of Brownsville, approved February 7th, 1853, reported the same back to the Senate, and recommended its passage with the following amendments:

Amend section 1st, by striking out all after the caption of the act down to the twelfth line, and insert:

"Sec. 1. Be it enacted by the Legislature of the State of Texas, that the 2d section of the above recited act is hereby amended so that the same shall hereafter read as follows."

Amend same section by inserting at the end of the same—*for the transaction of business.*"

Amend section 2d by striking out the first four lines and inserting:

"Sec. 2d. That the 3d section of the above recited act is hereby amended so that the same shall hereafter read as follows:"

Amend section 3d by striking out the first five lines, and inserting:

"Sec. 3. That the fourth section of the above recited act is hereby amended, so that the same shall hereafter read as follows:"

Amend same section by striking out that portion of said section which reads as follows: "and generally to do and perform by virtue of his office of marshal, all such duties in courts of justices of the peace, in said city, as are performed by constables therein."

Amend section fourth, by striking out the first five lines and inserting:

"Sec. 4. That the fifth section of the above recited act is hereby amended, so that the same shall hereafter read as follows:"

Amend same section, in the line marked 24, by striking out the words, "three months," and inserting in place thereof as follows, to wit: "Thirty days, and such fine not to exceed two hundred dollars."

Amend section fifth, by striking out the first five lines and inserting:

"Sec. 5. That the 6th section of the above recited act is hereby amended so that the same shall hereafter read as follows:"

And amend same section, in lines marked 27 and 28, by striking out the words "the jail of the county," and inserting in the place thereof the word "prison."

Amend same section, in the line marked 29, by inserting after the word "jail," "provided such imprisonment shall not exceed thirty days."

Amend same section by inserting at the end thereof as follows, to wit: "And all causes, civil or criminal, tried before the mayor under the provisions of this act, and of which a justice of the peace may now or hereafter have cognizance, shall be conducted in the same manner as is now or may hereafter be provided for by the laws regulating the trial of causes in justice's courts in like cases, including the issuance and return of process, and trial by jury; and all process issued by the mayor in such causes may be directed to, and served or executed by the city marshal, or the sheriff, or any constable of Cameron county; and the mayor may hold a term of court for the trial of such causes on Saturday of each week, and may keep such courts open until the business is completed; and he shall be entitled to charge the same fees as are now or may hereafter be allowed to justices of the peace for like services."

Mr. Hart, chairman of the committee on Private Land Claims, to whom was referred a bill for the relief of J. W. Magoffin and Hugh Stephenson, reported the same back to the Senate and recommended its passage.

Mr. Hart, from the same committee, made the following report:

The committee on Private Land Claims, to whom was referred the petitions of Reuben Fisher and John Fisher, have considered the same, and report the following bill for their relief, and recommend its passage:

A bill for the relief of Reuben Fisher and John Fisher; read first time.

Mr. Holland, chairman of the committee on Education, made the following report:

The committee on Education have had under discussion that portion of his Excellency, Governor Bell's message, which relates to common schools and educational purposes. They have also considered a bill referred to them to establish a system of common schools, and after an interesting investigation of its merits and demerits, have instructed me to report the same back to the Senate and recommend its passage, with the annexed amendment.

It does not enter into the design of the undersigned committee to enter into an elaborate argument upon the importance and pro-

priety of their recommendation ; otherwise, strong and valid reasons might be adduced in its support. They hope, however, that a few simple suggestions will suffice.

Your committee are well aware, that "a general diffusion of knowledge is essential to the preservation of the rights and liberties of our people;" and that the Constitution has wisely provided for the dissemination of useful information throughout the country.

They are also well aware that our State is so vast and extensive in her territory, and the same has heretofore been so sparsely inhabited as to have rendered the adoption of any method of free public schools at least doubtful and impracticable. But now, since the State is improving in wealth, strength, and morality, they believe it to be politic for her to do all in her power to advance her interest by promoting the cause of education.

The committee are satisfied that such a system as will meet the demands of all sections of the State cannot be adopted under existing circumstances; but they are equally as well satisfied that much good may be effected, and to the largest number, by the adoption of a law embracing the provisions of the aforesaid bill.

And your committee are further of opinion, that it was the intention of the framers of the Constitution to provide for the education of the children of the present and rising generation, and more especially the orphans of those daring and chivalrous heroes who sacrificed themselves upon the altar of Texian liberty, should be the beneficiaries thereof: and hence the necessity and utility of passing such an act as is contemplated in the accompanying bill—ample enough in its provisions to begin a system—if not, in the opinion of the committee, it is well worthy an experiment. It is only by degrees that any general system, having in view the general weal, can approximate perfection. Time will discover defects which experience will correct.

The committee are further of opinion, that it would be unwise and impolitic to interfere with the public school lands, now nearly valueless. If let alone, the spirit of progression in internal improvements, which has so largely infused itself into our legislative deliberations, giving an earnest that in a few years they will be so enhanced in value as to afford a revenue to sustain a common school system commensurate to the exigencies of a densely populated and prosperous State.

Amendment.

Strike out in the 11th section all after the word "provided," and insert, "That should any pupil or pupils, from any cause, be unable to attend school, the *pro rata* amount due such pupil

shall stand to his or her credit annually, until said pupil or pupils may go to school, or pass beyond the age of nineteen years; then the amount due said pupil or pupils shall go to the benefit of the district fund.

And be it further provided, that should any such pupil die during any scholastic year, then the *pro rata* amount due such decedent shall revert back to the district fund."

Mr. Superviele introduced a bill to define the civil rights of aliens, and a bill to provide for the issuance of land certificates to orphan children whose parents were entitled to land at the time of their death; each read first time.

On motion of Mr. Potter, Mr. Paschal was granted leave of absence for the day.

Mr. Holland introduced a joint resolution rescinding the contract subscribing for newspapers; read first time.

Mr. Durst introduced a bill to fix and establish the per diem and mileage pay of the members of the Legislature of the State of Texas, and a bill to fix and establish the annual pay of the officers of the State of Texas; each read first time.

Mr. Allen offered the following resolution:

Resolved, That the Doorkeeper be instructed to provide suitable seats and desks within the bar of the Senate, for the accommodation of the editors of this city, or their reporters; adopted.

On motion of Mr. Gage, the bill to reduce into one act and to amend the several acts granting to actual settlers on vacant public domain pre-emption privileges, was taken from the table and placed among the orders of the day.

ORDERS OF THE DAY.

A bill supplementary to an act making appropriations to defray the expenses of three companies of volunteers called into service of the State for the protection of the frontier, approved January 29th, 1853; read.

The Senate refused to engross it.

A bill to amend an act to regulate proceedings in the district courts; read second time, and, on motion of Mr. Lott, referred to the committee on Public Lands.

A bill to require holders of certain liabilities of the State of Texas to file releases exonerating the Government of the United States; read second time, and, on motion of Mr. Scott, referred to the committee on Public Debt.

A bill to amend the 3d section of an act to raise a revenue by taxation, approved March 20th, 1843; read second time, and, on motion of Mr. Scott, laid on the table.

A bill to provide for the erection of a residence for the Governor of the State of Texas, with the report of the committee on Public Buildings, recommending a substitute therefor; read, and report adopted.

On motion of Mr. Kyle, the bill was laid on the table.

Mr. Kyle moved to reconsider the vote refusing to engross the bill making appropriations for the payment of three companies of volunteers called into service for the protection of the frontier; carried by the following vote:

YEAS—Messrs. Allen, Armstrong, Bryan, Doane, Durst, Edwards, Holland, Keenan, Kyle, Lytle, Martin, McAnelly, McDade, Millican, Newman, Pedigo, Potter, Scarborough, Sublett, Superviele, Taylor and Whitaker—22.

NAYS—Messrs. Burks, Gage, Guinn, Hart, Hill, Jowers, Lott, Scott, Weatherford and Wren—10.

Mr. Lott moved to lay the bill on the table; lost.

The bill was then ordered to be engrossed by the following vote:

YEAS—Messrs. Allen, Armstrong, Bryan, Doane, Durst, Holland, Keenan, Kyle, Lytle, Martin, McAnelly, McDade, Newman, Potter, Scarborough, Sublett, Superviele and Whitaker—18.

NAYS—Messrs. Burks, Gage, Guinn, Hart, Hill, Jowers, Lott, Millican, Scott, Taylor, Weatherford and Wren—12.

A bill for the relief of Joab B. Harrell, Sheriff of Williamson county; read second time, and, on motion of Mr. Armstrong, referred to the committee on Claims and Accounts.

A bill granting Henry J. Jewett, Judge of the 13th judicial district of the State of Texas, leave of absence from the State; read second time and passed to a third reading.

A bill authorizing and requiring the Adjutant-General to issue a certificate for 2,560 acres of land to the heirs of J. C. Logan, deceased; read second time, and, on motion of Mr. Lott, referred to the committee on Private Land Claims.

A bill authorizing and requiring the Commissioner of the General Landoffice to issue a certificate for one third of a league of land to the heirs of J. C. Logan, deceased; read second time, and, on motion of Mr. McDade, referred to the committee on Private Land Claims.

A bill to reduce into one act and to amend the several acts granting to actual settlers on vacant public domain pre-emption privileges; read.

The question being on the adoption of Mr. Paschal's amend-

ment to the amendment offered by Mr. Durst to 4th section, was taken and amendment rejected.

Mr. Kyle moved to amend Mr. Durst's amendment by striking out "320 acres," and inserting "640 acres;" lost.

The amendment offered by Mr. Durst was then rejected.

On motion of Mr. Newman, the words "take an oath," in 9th line of 2d section, were stricken out, and the words "make an affidavit" inserted.

Mr. Keenan moved to strike out the words, "or may hereafter settle upon," in 1st section, 2d line; rejected by the following vote:

YEAS—Messrs. Bryan, Burks, Edwards, Hill, Keenan, Kyle, Lytle, McAnelly, McDade, Millican, Potter, Scarborough, Superviele and Whitaker—14.

NAYS—Messrs. Allen, Doane, Gage, Guinn, Hart, Jowers, Lott, Martin, Newman, Pedigo, Scott, Taylor, Weatherford and Wren—14.

Mr. Lott moved a call of the Senate, and the Sergeant-at-Arms was despatched after absent members.

The Senate being full, the call was suspended.

Mr. Keenan offered the following amendment:

Strike out "no more," and insert "one dollar per acre," in 4th section, 6th line.

On motion of Mr. Holland, laid on the table.

Mr. Keenan offered the following amendment:

Strike out in same section "twenty-five cents," and insert "one dollar and twenty-five cents;" rejected.

Mr. Scott offered the following amendment:

Substitute for 3d section, "That each and every such settler shall prove before the chief justice of the county in which he resides, by the testimony of two respectable citizens known to said chief justice, that he is bona fide settled upon vacant lands as contemplated in this act; and the said chief justice shall deliver to such settler a certificate for the same under the seal of his office, attested by the clerk of the county court, upon receiving a fee of fifty cents therefor; and it shall be the duty of said chief justice to cause a record of the same to be kept in his office; adopted.

Mr. Potter offered the following amendment:

Amend section 4th by striking out the words "twenty-five cents," and insert "one dollar;" rejected by the following vote:

YEAS—Messrs. Bryan, Edwards, Hill, Keenan, Kyle, Lytle, McAnelly, McDade, Millican, Potter, Scarborough, Sublett and Superviele—13.

NAYS—Messrs. Allen, Armstrong, Burks, Doane, Durst, Gage, Guinn, Hart, Holland, Jowers, Lott, Martin, Newman, Pedigo, Scott, Taylor, Weatherford, Whitaker and Wren—19.

Mr. Holland offered the following amendment:

Strike out "25 cents," in 9th line, section 4th, and insert "50 cents;" rejected.

Mr. Wren offered the following amendment:

Strike out all after "one hundred and sixty acres," in 4th section, 7th line; adopted by the following vote:

YEAS—Messrs. Armstrong, Bryan, Durst, Edwards, Gage, Hill, Keenan, Kyle, Lytle, McAnelly, McDade, Millican, Newman, Potter, Scarborough, Sublett, Superviele, Whitaker, and Wren—19.

NAYS—Messrs. Allen, Burks, Doane, Guinn, Hart, Holland, Jowers, Lott, Martin, Pedigo, Scott, Taylor and Weatherford—13.

Mr. Allen offered the following amendment:

Insert after the word "he" the words "or she," and after the word "his" the words "or hers," wherever they occur in the bill; adopted.

Mr. Hill offered the following amendment as a substitute for section 3:

SEC. 3. Be it further enacted, That each and every such settler shall prove before the chief justice of the county court of the county in which he resides, by the testimony of two respectable citizens of the same county, known to said chief justice, that he is a *bona fide* settler upon vacant land, and that he has resided upon and cultivated the same for the space of three years next preceding the time of making such proof. And the said chief justice shall, after recording in a book to be kept by him for that purpose, the application of such settler, the proof taken in support of the same, and the names of the witnesses, shall deliver to such settler a certificate under the seal of his office upon receiving a fee of two dollars therefor;" adopted.

Mr. Bryan offered the following amendment, to come in after the words "provisions of this," in 9th line, 8th section:

Provided, that the provisions of this act shall not extend to any person who did not emigrate to the State prior to the passage of this act; adopted by the following vote:

YEAS—Messrs. Allen, Bryan, Burks, Doane, Durst, Edwards, Gage, Hill, Holland, Kyle, Lytle, McAnelly, McDade, Millican, Newman, Potter, Scarborough, Scott, Sublett, Superviele, Taylor and Whitaker—22.

NAYS—Messrs. Armstrong, Guinn, Hart, Jowers, Lott, Martin, Pedigo, Weatherford and Wren—9.

On motion of Mr. Kyle, the bill was laid on the table until Wednesday 30th inst., at 12 o'clock, by the following vote :

YEAS—Messrs. Allen, Armstrong, Bryan, Doane, Durst, Edwards, Gage, Hill, Keenan, Kyle, Lytle, McAnelly, McDade, Millican, Pedigo, Potter, Scarborough, Sublett, Superviele, Taylor and Whitaker—21.

NAYS—Messrs. Burks, Guinn, Hart, Holland, Jowers, Lott, Martin, Newman, Scott, Weatherford and Wren—11.

On motion of Mr. Potter, the committee on Printing and Contingent Expenses were instructed to have printed 500 copies of the Comptroller's Report.

The President announced that this was the day set apart by resolution of the Senate for classifying the Senate.

Mr. Hart moved to postpone the classification ; lost.

On motion of Mr. Potter, the Senate proceeded to classify, whereupon the following Senators were drawn in the first class, to serve two years :

Messrs. Burks, Edwards, Hart, Holland, Jowers, Keenan, Kyle, Lott, Martin, Millican, Newman, Paschal, Pedigo, Sublett, Taylor and Wren—10.

And the following Senators were drawn in the second class, to serve four years :

Messrs. Allen, Armstrong, Bryan, Doane, Durst, Gage, Guinn, Hill, Lytle, McAnelly, McDade, Potter, Scarborough, Scott, Superviele, Weatherford and Whitaker—17.

Mr. Armstrong moved to reconsider the vote on the resolution of Mr. Jowers, requiring the Secretary of the Senate to cause to be examined the unfinished business of the past sessions of the Senate, and deposit the vouchers of such as call for pay for military or naval service, or supplies furnished the army or navy, in the Auditor's office ; and such as call for lands, in the Adjutant-General's office.

Mr. Jowers moved to lay the motion on the table ; carried.

On motion of Mr. Scott, the Senate adjourned until 9 o'clock to-morrow morning.

TUESDAY, Nov. 29, 1853.

The Senate was called to order pursuant to adjournment—prayer by the Chaplain—roll called—quorum present.

The journal of yesterday was read and adopted.

Mr. Scott presented the memorial of the Temperance Conven-